

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

WILLIAM CATO SELLS, JR.,

Plaintiff,

v.

E.K. MCDANIEL, *et al.*,

Defendants.

3:08-CV-170-BES-RAM

**ORDER**

Before the Court is the Report and Recommendation of the United States Magistrate Judge (#64) ("Recommendation") entered on April 9, 2009, in which the Magistrate Judge recommends that this Court grant plaintiff's Motion for a Preliminary Injunction (#39). No objection to the Report and Recommendation has been filed.

**I. DISCUSSION**

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Further, under 28 U.S.C. § 636(b)(1), if a party makes a timely objection to the magistrate judge's recommendation, then this Court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made."<sup>1</sup> Nevertheless, the statute does not "require[ ] some lesser review by [this Court] when no objections are filed." *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). Instead, under the statute, this Court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Id.* at 149. Similarly, the Ninth

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<sup>1</sup> For an objection to be timely, a party must serve and file it within 10 days after being served with the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1)(C).

1 Circuit has recognized that a district court is not required to review a magistrate judge's report  
2 and recommendation where no objections have been filed. See United States v. Reyna-Tapia,  
3 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district  
4 court when reviewing a report and recommendation to which no objections were made); see  
5 also Schmidt v. Johnstone, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth  
6 Circuit's decision in Reyna-Tapia as adopting the view that district courts are not required to  
7 review "any issue that is not the subject of an objection."). Thus, if there is no objection to a  
8 magistrate judge's recommendation, then this Court may accept the recommendation without  
9 review. See e.g., Johnstone, 263 F.Supp. 2d at 1226 (accepting, without review, a magistrate  
10 judge's recommendation to which no objection was filed).

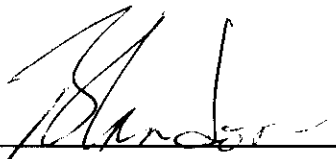
11 In this case, defendants have not filed an objection to the Magistrate Judge's Report  
12 and Recommendation. Although no objection was filed, this Court has reviewed the Report  
13 and Recommendation (#64), and accepts it. Accordingly,

14 IT IS HEREBY ORDERED that plaintiff's Motion for a Preliminary Injunction (#39) is  
15 GRANTED..

16 IT IS SO ORDERED.

17 DATED: This 15th day of July, 2009.

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UNITED STATES DISTRICT JUDGE